IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1034 of 1982

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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DHANJIBHAI DAMJIBHAI PATEL - Appellant(s)
Versus
CHARITY COMMISSIONER & 29 - Defendant(s)

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Appearance :
MR DEEP VYAS FOR Mr. DD VYAS for Appellant(s) : 1,
GOVERNMENT PLEADER for Defendant(s) : 1 - 2.
None for Defendant(s) : 3 - 4,7 - 9, 17, 19, 21, 25,
NOTICE SERVED for Defendant(s) : 5 - 6, 10, 10.2.1, 10.2.2, 10.2.3, 10.2.4,10.2.5 - 16, 18, 20,22 - 24,26 - 30.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 30/08/2006

ORAL JUDGMENT

1. By way of this appeal the appellant has challenged the judgement and decree dated 27.07.1981 passed by the District Judge, Jamnagar whereby the same was dismissed.

2. The short facts of the case are that Shri Shitla Mata Mandir, Kalawad is a public trust having registration No. A-1134-J Jamnagar. According to original applicants the land bearing Survey No. 204 admeasuring 5 acres- 37 gunthas situated at Kalawad

is the property of Shri Shitla Mata Mandir. The issue before the Trial Court was that whether the said properly was of the Shitla Mata Mandir or not.

3. Learned advocate for the appellant has submitted that the learned Judge and the Joint Charity Commissioner have erred in holding that no forgery was committed in respect of the order dated 13.10.1951 passed in Case No. 4 of 1951. He further submitted that it ought to have been held that the Special Mamlatdar had no jurisdiction to issue occupancy certificate in favour of the Shitla Mata Trust.

4. Heard. The concurrent finding of the authority is that the property it is properly of the Trust. In this regard it would be relevant to note the observations of the Joint Charity Commissioner as under:

> “It appears to be that this plea is no correct No new legal liability or obligation is created under the B.P.T. Act 1950, for the first time nor any vested rights of the opponents are affected or impaired by the Act. In law, the opponents had no any legal right in the land as owners prior to

> 1.08.1961, that therefore they had no right to sold it to anybody. Now under this act a new remedy and procedure is provided but the legal rights are not effected.

Therefore the Joint Charity Commissioner has held that the land bearing Survey No. 204 admeasuring 5-Acres-37 Gunthas situated at village Kalawad is the property of Shri Shitla Mandir registered at P.T.R. No. A-1134- Jamnagar, and it shall be entered in P.T.R. as its property.

5. In view of the above finding I am of the view that the Trial Court has not committed any error in passing the impugned order. I am in complete agreement with the reasonings adopted and the findings arrived at by the Trial Court. No case is made out to cause interference. Hence the appeal is dismissed. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*